



FEDERAL RESERVE SYSTEM

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Board of Governors of the Federal Reserve System.

SUMMARY: On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board of Governors of the Federal Reserve System (Board) its approval authority under the Paperwork Reduction Act (PRA), to approve of and assign OMB numbers to collection of information requests and requirements conducted or sponsored by the Board. Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the PRA Submission, supporting statements and approved collection of information instruments are placed into OMB's public docket files. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB number.

DATES: Comments must be submitted on or before **[INSERT DATE 60 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: You may submit comments, identified by *FR 4027 or FR 4029*, by any of the following methods:

- Agency Website: <http://www.federalreserve.gov>. Follow the instructions for submitting comments at <http://www.federalreserve.gov/apps/foia/proposedregs.aspx>.
- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- E-mail: regs.comments@federalreserve.gov. Include OMB number in the subject line of the message.
- FAX: (202) 452-3819 or (202) 452-3102.
- Mail: Robert deV. Frierson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW, Washington, DC 20551.

All public comments are available from the Board's website at <http://www.federalreserve.gov/apps/foia/proposedregs.aspx> as submitted, unless modified for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper form in Room 3515, 1801 K Street (between 18th and 19th Streets NW) Washington, DC 20006 between 9:00 a.m. and 5:00 p.m. on weekdays.

Additionally, commenters may send a copy of their comments to the OMB Desk Officer – Shagufta Ahmed – Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235 725 17th Street, NW, Washington, DC 20503 or by fax to (202) 395-6974.

FOR FURTHER INFORMATION CONTACT: A copy of the PRA OMB submission, including the proposed reporting form and instructions, supporting statement, and other documentation will be placed into OMB's public docket files, once approved. These documents will also be made available on the Federal Reserve Board's public website at: <http://www.federalreserve.gov/apps/reportforms/review.aspx> or may be requested from the agency clearance officer, whose name appears below.

Federal Reserve Board Clearance Officer – Nuha Elmaghrabi – Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202) 452-3829. Telecommunications Device for the Deaf (TDD) users may contact (202) 263-4869, Board of Governors of the Federal Reserve System, Washington, DC 20551.

SUPPLEMENTARY INFORMATION:

Request for comment on information collection proposals

The following information collections, which are being handled under this delegated authority, have received initial Board approval and are hereby published for comment. At the end of the comment period, the proposed information collections, along with an analysis of comments and recommendations received, will be submitted to the Board for final approval under OMB delegated authority. Comments are invited on the following:

- a. Whether the proposed collection of information is necessary for the proper performance of the Federal Reserve's functions; including whether the information has practical utility;
- b. The accuracy of the Federal Reserve's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;
- c. Ways to enhance the quality, utility, and clarity of the information to be collected;
- d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and
- e. Estimates of capital or start up costs and costs of operation, maintenance, and purchase of services to provide information.

Proposal to approve under OMB delegated authority the extension for three years, without revision, of the following reports:

1. *Report title:* Recordkeeping Requirements Associated with the Guidance on Sound Incentive Compensation Policies.

Agency form number: FR 4027.

OMB control number: 7100-0327.

Frequency: On occasion.

Reporters: State member banks, U.S. bank holding companies, savings and loan holding companies, Edge Act and agreement corporations, and the U.S. operations of foreign banks with a branch, agency, or commercial lending company in the United States.

Estimated annual reporting hours: One-time implementation: Large institutions - 2,400 hours and small institutions - 400 hours; Ongoing maintenance - 228,400 hours.

Estimated average hours per response: One-time implementation: Large institutions – 480 hours and small institutions - 80 hours; Ongoing maintenance - 40 hours.

Number of respondents: One-time implementation: Large institutions - 5 respondents and small institutions - 5 respondents; Ongoing maintenance - 5,710 respondents.

General description of report: This information collection is authorized pursuant to sections 9, 11(a), 11(i), 25, and 25A of the Federal Reserve Act (12 U.S.C. 248(a), 248(i), 324, 602, and 625), section 5 of the Bank Holding Company Act (12 U.S.C. 1844), section 10(b)(2) of the Home Owners' Loan Act (12 U.S.C. 1467a(b)(2)), and section 7(c) of the International Banking Act (12 U.S.C. 3105(c)). Because the recordkeeping requirements are contained within guidance (and not a statute or regulation) they are voluntary. Because the records will be maintained by each banking institution, the Freedom of Information Act (FOIA) would only be implicated if the Board's examiners retained a copy of the records as part of an examination or supervision of the banking institution. To the extent the Board collects this information during the course of an examination or supervision of a banking institution, the information is considered confidential under exemption 8 of the FOIA (5 U.S.C. 552(b)(8)). In addition, the information may also be kept confidential under exemption 4 of the FOIA which protects commercial or financial information obtained from a person that is privileged or confidential (5 U.S.C. 552(b)(4)).

Abstract: Incentive compensation practices in the financial services industry were one of many factors contributing to the financial crisis that began in 2007. Banking organizations too often rewarded employees for increasing the firm's short-term revenue or profit without adequate recognition of the risks the employees' activities posed for the firm. More importantly, problematic compensation practices were not limited to the most senior executives at financial firms. Compensation practices can encourage employees at various levels of a banking organization, either individually or as a group, to undertake imprudent risks that can significantly and adversely affect the risk profile of the firm.

The Sound Incentive Compensation Policies (the Guidance) was developed to help protect the safety and soundness of banking organizations and promote the prompt improvement of incentive compensation practices throughout the banking industry. In addition, the guidance is consistent with the Principles for Sound Compensation Practices adopted by the Financial Stability Board (FSB) in April 2009, as well as the Implementation Standards for those principles issued by the FSB in September 2009.

Compatibility with Effective Controls and Risk Management

Principle 2 of the Guidance states that a banking organization should have strong controls governing its process for designing, implementing, and monitoring incentive compensation arrangements. An organization's policies and procedures should:

- identify and describe the role(s) of the personnel, business units, and control units authorized to be involved in the design, implementation, and monitoring of incentive compensation arrangements;
- identify the source of significant risk-related inputs into these processes and establish appropriate controls governing the development and approval of these inputs to help ensure their integrity; and
- identify the individual(s) and control unit(s) whose approval is necessary for the establishment of new incentive compensation arrangements or modification of existing arrangements. Banking organizations also should create and maintain sufficient documentation to permit an audit of the organization's processes for establishing, modifying, and monitoring incentive compensation arrangements.

The Guidance also states that a banking organization should conduct regular internal reviews to ensure that its processes for achieving and maintaining balanced incentive compensation arrangements are consistently followed. Such reviews should be conducted by audit, compliance, or other personnel in a manner consistent with the organization's overall framework for compliance monitoring. An organization's internal audit department also should separately conduct regular audits of the organization's compliance with its established policies and controls relating to incentive compensation arrangements. The results should be reported to appropriate levels of management and, where appropriate, the organization's board of directors.

Strong Corporate Governance

Principle 3 of the Guidance states that the board of directors should review and approve the overall goals and purposes of the firm's incentive compensation system. The board of directors should provide clear direction to management to ensure that its policies and procedures are carried out in a manner that achieves balance and is consistent with safety and soundness.

The board of directors should approve and document any material exceptions or adjustments to the incentive compensation arrangements established for senior executives and should carefully consider and monitor the effects of any approved exceptions or adjustments on the balance of the arrangement, the risk-taking incentives of the senior executive, and the safety and soundness of the organization.

The board of directors should receive and review, on an annual or more frequent basis, an assessment by management, with appropriate input from risk management personnel, of the effectiveness of the design and operation of the organization's incentive compensation system in providing risk taking incentives that are consistent with the organization's safety and soundness. These reports should include an evaluation of whether or how incentive compensation practices may be encouraging excessive risk taking. These reviews and reports should be appropriately scoped to reflect the size and complexity of the banking organization's activities and the prevalence and scope of its incentive compensation arrangements. In addition, at banking

organizations that are significant users of incentive compensation arrangements, the board should receive periodic reports that review incentive compensation awards and payments relative to risk outcomes on a backward-looking basis to determine whether the organization's incentive compensation arrangements may be promoting excessive risk-taking.

2. *Report title:* Interagency Guidance on Managing Compliance and Reputation Risks for Reverse Mortgage Products.

Agency form number: FR 4029.

OMB control number: 7100-0330.

Frequency: On occasion.

Reporters: State member banks that originate proprietary and Home Equity Conversion Program (HECM) reverse mortgages.

Estimated annual reporting hours: Implementation of policies and procedures, 680 hours; Review and maintenance of policies and procedures, 136 hours.

Estimated average hours per response: Implementation of policies and procedures, 40 hours; Review and maintenance of policies and procedures, 8 hours.

Number of respondents: Implementation of policies and procedures, 17 respondents; Review and maintenance of policies and procedures, 17 respondents.

General description of report: Previously, the Board's Legal Division determined that the Board was authorized to issue this guidance pursuant to its authority under section 18(f) of the Federal Trade Commission Act, which authorized the Board to prescribe regulations regarding unfair or deceptive acts or practice by banks (15 U.S.C. 57a(f)) and section 105 of the Truth in Lending Act, which authorized the Board to prescribe regulations to carry out the purposes of the Truth in Lending Act (TILA) (15 U.S.C. 1604). However, under the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) much of the Board's authority under these laws was transferred to the Consumer Financial Protection Bureau. Nonetheless, we continue to believe that the Board has the authority to issue this guidance pursuant to its authority under section 39 of the Federal Deposit Insurance Act (FDI Act), which generally authorizes the Board to establish safety and soundness standards for depository institutions supervised by the Board (12 U.S.C. 1381p-1(a)). Financial institutions' obligation under this guidance is voluntary. Because the documentation required by the guidance is maintained by each institution, the Freedom of Information Act (FOIA) would only be implicated if the Board's examiners retained a copy of this information as part of an examination or supervision of a bank. However, records obtained as a part of an examination or supervision of a bank are exempt from disclosure under FOIA exemption (b)(8), for examination material (5 U.S.C. 552(b)(8)). In addition, the information may also be kept confidential under exemption 4 of the FOIA which protects commercial or financial information obtained from a person that is privileged or confidential (5 U.S.C. 552(b)(4)).

Abstract: Reverse mortgages are home-secured loans typically offered to elderly consumers. Financial institutions currently provide two types of reverse mortgage products: the lenders' own proprietary reverse mortgage products and reverse mortgages insured by the Department of Housing and Urban Development's Federal Housing Administration (FHA). Reverse mortgage loans insured by the FHA are made pursuant to the guidelines and rules established by HUD's HECM program. HECM loans and proprietary reverse mortgages are also subject to the rules that implement consumer protection laws such as the Real Estate Settlement Procedures Act (RESPA) and TILA.

In August 2010, the Federal Financial Institutions Examination Council, on behalf of its member agencies,¹ published a *Federal Register* notice adopting supervisory guidance titled "Reverse Mortgage Products: Guidance for Managing Compliance and Reputation Risks."² The guidance is designed to help financial institutions with risk management and assist financial institutions' efforts to ensure that their reverse mortgage lending practices adequately address consumer compliance and reputation risks.

The guidance describes reporting, recordkeeping, and disclosures for both proprietary and HECM reverse mortgages. A number of these disclosures are "usual and customary" business practices for proprietary and HECM reverse mortgages, and these would not meet the PRA's definition of "paperwork." Other included disclosure requirements are currently mandated by RESPA or TILA for all reverse mortgage loans and information collections required by HUD's rules for HECM loans.³ Discussion of these requirements in the guidance is also not considered additional paperwork burden imposed by the guidance.

Proprietary reverse mortgage products, however, are not subject to HUD's rules for HECM loans. To the extent that the interagency guidance applies HECM requirements to proprietary loans, this would meet the PRA's definition of paperwork burden.

There are also additional provisions in the guidance that apply to both proprietary and HECM reverse mortgages that do not meet the "usual and customary" standard, are not covered by already approved information collections and, therefore, likewise meet the PRA's definition of paperwork burden.

Proprietary Reverse Mortgages

Financial institutions offering proprietary reverse mortgages are encouraged under the guidance to follow or adopt relevant HECM requirements for mandatory counseling, disclosures, affordable origination fees, restrictions on cross-selling of ancillary products, and reliable appraisals.

¹ The Board, the Federal Deposit Insurance Corporation, the National Credit Union Administration, the Office of the Comptroller of the Currency, and the Office of Thrift Supervision.

² 75 FR 50801.

³ OMB Control No. 2502-0524.

Proprietary and HECM Reverse Mortgages

Financial institutions offering either proprietary or HECM reverse mortgages are encouraged to develop clear and balanced product descriptions and make them available to consumers shopping for a mortgage. They should set forth a description of how disbursements can be received and include timely information to supplement disclosures mandated by TILA and other disclosures. Promotional materials and product descriptions should include information about the costs, terms, features, and risks of reverse mortgage products.

Financial institutions should adopt policies and procedures that prohibit directing a consumer to a particular counseling agency or contacting a counselor on the consumer's behalf. They should adopt clear written policies and establish internal controls specifying that neither the lender nor any broker will require the borrower to purchase any other product from the lender in order to obtain the mortgage. Policies should be clear so that originators do not have an inappropriate incentive to sell other products that appear linked to the granting of a mortgage. Legal and compliance reviews should include oversight of compensation programs so that lending personnel are not improperly encouraged to direct consumers to particular products.

Financial institutions making, purchasing, or servicing reverse mortgages through a third party should conduct due diligence and establish criteria for third-party relationships and compensation. They should set requirements for agreements and establish systems to monitor compliance with the agreement and applicable laws and regulations. They should also take corrective action if a third party fails to comply. Third-party relationships should be structured in a way that does not conflict with RESPA.

Board of Governors of the Federal Reserve System, June 18, 2015.

Robert deV. Frierson,
Secretary of the Board.
Billing Code 6210-01-P

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